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ECF filed: 3/12/20

6 Attorney for Interested Party
 7 Reno Patio & Fireplaces, LLC

8
 9 UNITED STATES BANKRUPTCY COURT
 10
 11 DISTRICT OF NEVADA

12 IN RE:

13 AFFORDABLE PATIOS & SUNROOM
 14 dba RENO PATIO AND FIREPLACES,
 15 INC,

16 Debtor(s).

) Case No.: BK-20-50017btb
) Chapter 7
) Adv. No. 20-05004
)
) **RESPONSE TO MOTION TO SELL**
) **REAL PROPERTY FREE AND CLEAR**
) **OF LIENS**

17 HEARING DATE: March 13, 2020
 18 HEARING TIME: 10:00 a.m.

19
 20 COMES NOW, Interested Party, RENO PATIO & FIREPLACES, LLC, (hereafter
 21 Interested Party) by and through its attorney, Nathan R. Zeltzer, Esq., and responds to Chapter 7
 22 Trustee, Christopher P. Burke's Motion to Sell Real Property Free and Clear of Liens. This
 23 Response is brought pursuant to the Points and Authorities included herein, additional documents
 24 in the Court file, and on further oral argument of counsel as may be presented at the time of the
 25 hearing.

26
 27 **MEMORANDUM OF POINTS AND AUTHORITIES**

28 I. **BACKGROUND ON MOTION**

This Movant filed its Motion to Sell Real Property Free and Clear of Liens on March 5, 2020. The Court allowed the Movant to hold this hearing on shortened time at the March 3, 2020 hearing on Movant's Ex Parte Motion for Extension of Temporary Restraining Order.¹ The respondent agreed with the Chapter 7 Trustee's request to sell its building located at 910

At that hearing the Court never ruled on extending, or denying the Movant's request for extension of the Temporary Restraining Order.

1 Glendale, Sparks, NV 8943 on the terms specified in his Motion. There was no additional
2 agreement to extend the Temporary Restraining Order for a time certain.

3 Presently the power at the Glendale property has been shut off, and the managing
4 member of the Interested Party is no longer receiving any funds from the business. Without these
5 proceeds the managing member cannot continue to service the expenses associated with the
6 remaining business assets of Interested Party. This has caused problems for the tenants that had
7 leases at the Glendale property, as well as issues with the collection of car notes that are an asset
8 of the interested party. A letter was sent to the Chapter 7 Trustee regarding these issues, but at
9 the time of filing this response he has not responded to these issues. These issues must be dealt
10 with as soon as possible.

11 **II. LAW AND ARGUMENT**

12 **A. THE INTERESTED PARTY DOES NOT AGREE TO SUBSTANTIVE CONSOLIDATION
13 WITH AFFORDABLE SUNROOMS & PATIOS, INC. CASE**

14 As expressed in the Opposition to Movant's Ex Parte Motion for Extension of
15 Temporary Restraining Order the interested party does not believe the Trustee can seek
16 substantive consolidation of the two entities without notice being given to the creditors of the
17 interested party. See Leslie v. Mihranian (In re Mihranian), 937 F.3d 1214 (9th Cir. Sept. 2019).
18 The interested party asks the Court to take Judicial Notice of the prior filed Opposition to Motion
19 for Ex Parte Restraining Order (Doc 21) of this case. As Reno Patio and Fireplaces, LLC is a
20 separate entity its creditors must have a say in the future liquidation of that entity. Here, the
21 Trustee is attempting to run roughshod over these creditors' without giving them the opportunity
22 to be heard on this significant action that is taking place.

23 If the Temporary Restraining Order is extended it means that this business will be left
24 in the hands of the Trustee who may not recover outstanding accounts receivables that will lead
25 to the interested parties creditors not being paid in full. This would be an injustice to these
26 creditors who have not had an opportunity to be heard on the fate of Reno Patios and Fireplaces,
27 LLC. The interested party asks that the Court dissolve the Temporary Restraining Order or set an
28 emergency hearing to determine the continuation of the Temporary Restraining Order.

**B. TO PROPERLY LIQUIDATE THE ASSETS OF RENO PATIO AND FIREPLACES, LLC
THE PARTY HANDLING COLLECTION OF THESE ASSETS MUST HAVE USED CAR
LOAN AND COLLECTION EXPERIENCE**

The interested party has significant assets that need to be liquidated. This includes a portfolio of finance agreements of parties that purchased vehicles from Mill Street Auto, a dba of Reno Patio and Fireplaces, LLC. These contracts were buy here pay arrangements and there is approximately \$300,000.00 in notes receivable outstanding on these notes. See Declaration of managing member John Woodley in Support of this Response filed concurrently with this Response. These assets need to be liquidated in a specific manner to recoup the highest amount of return possible on these assets. The Trustee has not indicated how he plans to liquidate this valuable asset that he is in temporary control of.

11 The interested party requests that it has the ability to determine who is selected to
12 liquidate the above-mentioned assets so as to recover money that is owed to its creditors.
13 Without this input the creditors of the interested party will suffer irreparable harm and additional
14 damages that can be avoided.

15 WHEREFORE, Interested Party requests that the Motion to Sell Real Estate be
16 approved, and the funds be held pending further order of this Court. That the Temporary
17 Restraining Order be dissolved. That if the Court is inclined to continue the Temporary
18 Restraining Order that a further hearing be set as to the duration of the Temporary Restraining
19 Order on the Trustee's Adversary Complaint. And for such further relief that the Court deems
20 just and equitable.

22 | Submitted this 12th day of March, 2020

/s/Nathan R. Zeltzer
Nathan R. Zeltzer, Esq.
Attorney for the Interested Party

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ECF-filed on: 03/12/2020

7 Attorney for Reno Patio &
8 Fireplaces, LLC

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10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF NEVADA

12 * * *

13 IN RE:) Case No.: BK-20-50017-BTB
14 AFFORDABLE PATIOS & SUNROOM) Chapter 7
15 dba RENO PATIO AND FIREPLACES, INC,) ADV. NO. 20-05004- BTB
16) CERTIFICATE OF SERVICE
17 Debtor.)
18)
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28)

1. On March, 12, 2020, I served the following document: RESPONSE TO MOTION TO SELL
2 REAL PROPERTY FREE AND CLEAR OF LIENS

3 2. I served the above-named documents by the following means to the persons as listed below:
4 a. ECF System:

5 Michael Lehners
6 michaellehners@yahoo.com

7 b. United States Mail, postage fully prepaid:
8 c. Personal Service: I personally delivered the document(s) to the persons at these
9 addresses:
10 d. By direct e-mail (as opposed to through the ECF System)

11 John Woodley: woodleygroup@me.com

12 e. By fax transmission

13 Michael Lehners (775) 786-0799

14 f. By messenger

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Signed on: March 12, 2020

17 /s/ Malia Camozzi

18 Malia Camozzi, Declarant